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## Governor Michael J. Dunleavy STATE OF ALASKA

October 11, 2019

The Honorable Bryce Edgmon  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Edgmon:

Under the authority vested in me by Article II, Section 15, Constitution of the State of Alaska, I have vetoed the following bill:

CS HB 48 (FIN) am

“Removing from the exempt service of the state persons who are employed in a professional capacity to make a temporary or special inquiry, study, or examination as authorized by the governor and including those persons in the partially exempt service of the state; repealing the authority of the governor or a designee of the governor to authorize higher pay than is otherwise allowable for certain partially exempt employees in the executive branch; requiring the commissioner of administration to submit a report to the legislature; and providing for an effective date.”

HB 48 proposes to reclassify persons that are employed in a professional capacity to make temporary or special inquiry, as authorized by the Governor, from exempt service to the partially exempt service. This reclassification to partially exempt service requires the use of the statutory salary schedule, PERS, healthcare benefits, and leave accrual. It would also require these employees to be tracked for budgetary and position count purposes.

These positions, intended to be temporary, were established and never moved from “temporary” to “permanent” even though they may be open, two, three, or four years. Also, not all agencies account for these temporary positions in their position count or budget. By moving these positions to the partially exempt or classified service, it provides more transparency in hire and equal application of statutory pay schedules and benefits for state employees. The Department of

The Honorable Bryce Edgmon

HB 48

October 11, 2019

Page 2 of 2

Administration supported this approach and included this same provision in legislation introduced at the request of the Governor pertaining to certain public employees.

However, HB 48 also repeals AS 39.27.011(k). This provision grants the Governor the authority to authorize a higher pay step for certain partially exempt employees. The authorization must be based on the determination that the action serves a critical governmental interest of the state, the employee possesses exceptional qualifications, recruitment difficulties existed, or the action is necessary due to competitive salaries in the relevant labor market. The determination must be in writing.

AS 39.27.011(k) was enacted into law in 2013, as part of a broader personnel undertaking. It provides agencies with a valuable tool to recruit candidates with specialized skills or senior level experience for positions that are classified as partially exempt. Oftentimes, using this section is the only way the State can offer salaries that compete with the private sector to attract highly qualified individuals.

The repeal of AS 39.27.011(k) was proposed through the committee process so that when the temporary exempt positions were reclassified to temporary partially exempt positions, it could not be used to override statutory salary schedules. It was adopted with the intent of closing a potential loophole.

However, the unintended consequence of repealing AS 39.27.011(k) is that a valuable tool is removed from state agencies in their ability to recruit and hire individuals with specialized skills or experience. Therefore, I have chosen to veto CS HB 48 (FIN) am.

Sincerely,



Michael J. Dunleavy  
Governor

Enclosure